

Chapter 17.32**CONDITIONAL EXCEPTIONS****Sections:**

17.32.010	Conditional Exceptions.
17.32.020	Application.
17.32.030	Referral to Planning Commission.
17.32.040	Notice.
17.32.050	Consideration of Exception.
17.32.060	Appeals.
17.32.070	Hearing.

Section 17.32.010 Conditional Exceptions.

Generally. Conditional exceptions to the regulations contained in this chapter shall be permitted upon a finding by the Zoning Administrator that exceptional or special circumstances apply to the property. Such exceptional or special circumstances shall include such characteristics as unusual lot size, shape, or topography, drainage problems, or the impracticability of employing a conforming grading plan, by reason of prior existing recorded subdivisions or other characteristics of contiguous properties. (Ord. 6453 § 1, 1998)

Section 17.32.020 Application.

Application for the waiver of any requirement of this chapter shall be filed with the Planning Department prior to approval of the grading plan. The application shall be signed by the property owner or owner's representative using forms supplied by the Planning Department. The application shall contain information which demonstrates that there are exceptional or special circumstances that apply to the property that would prevent compliance with this title. The application shall substantiate the existence of exceptional or special circumstances by making the following findings:

A. That the strict application of the provisions of this Title would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of this Title;

B. That there are exceptional circumstances or conditions applicable to the property involved or to the intended use or development of the property that do not apply generally to other property in the same zone or neighborhood;

C. That the granting of a waiver will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located.

The Zoning Administrator may require additional information if it is necessary to make a determination regarding the waiver request. The application shall be accompanied by a fee established by resolution of the City Council. A separate application shall be filed for each or grading project. (Ord. 6453 § 1, 1998)

Section 17.32.030 Referral to Planning Commission.

If at any time the Zoning Administrator believes that sufficient controversy or public interest may exist regarding a waiver application the waiver may be referred to Planning Commission for disposition. The Planning Commission may set the action for review at a public hearing if they so determine that it would be appropriate. (Ord. 6453 § 1, 1998)

Section 17.32.040 Notice.

Public notice of the consideration of a proposed waiver shall be provided by the Planning Department by mailing such notice to all owners of properties adjacent to the exterior boundaries of the property under consideration. The notice shall invite interested persons to

notify the Planning Department of any concerns or comments within ten days of the date of the notice. (Ord. 6453 § 1, 1998)

Section 17.32.050 Consideration of Exception.

In determining whether to grant or deny the application for exception to the requirements of this title, the Zoning Administrator or Planning Commission shall consider the property characteristics, comments received from surrounding property owners, the community, or other persons, hardships on the applicant, and any other adverse impacts imposed by the regulations contained in this title in its determination of findings of fact to support its decision concerning the request for exception. (Ord. 6453 § 1, 1998)

Section 17.32.060 Appeals.

An applicant may appeal the decision of the Zoning Administrator or Planning Commission within ten days of the determination. An appeal to the City Council shall be taken by filing a letter of appeal, in duplicate, with the Planning Department and by concurrently paying to such department a fee in the amount established by City Council resolution. Such letter of appeal shall set forth the grounds upon which the appeal is based. Within ten days after the receipt of the letter of appeal and the filing fee, the Planning Department shall transmit to the City Council the letter of appeal, the application and all other papers constituting the record upon which the action of the Planning Commission or Zoning Administrator was taken, together with a written report stating in what respects it was determined by the Commission or the Zoning Administrator that the application failed to meet the requirements of this Chapter. (Ord. 6453 § 1, 1998)

Section 17.32.070 Hearing.

The City Council shall conduct a hearing on such appeal and the City Clerk shall give notice of hearing in the same manner and for the same period of time as set forth in the notice provision for an application for a permit. The hearing shall be conducted upon the date set forth in such notice. Upon such appeal, the Council shall consider all of the matters transmitted to it by the Planning Department, together with all evidence properly received at such hearing. The City Council may affirm, reverse or modify the decision of the Commission or Zoning Administrator. In the event that the Council reverses the decision of the Commission or Zoning Administrator, and grants the permit such permit shall be placed, for the purposes of administration under the jurisdiction of the Commission or Zoning Administrator whichever originally considered the application for the grading permit. (Ord. 6453 § 1, 1998)